



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable I. Fredecki  
County Auditor  
Galveston County  
Galveston, Texas

Dear Sir:

Opinion No. 0-1193

Re: May Galveston County, Texas, pay the premium on the official bond of the county treasurer?

Your request for opinion upon the above stated question has been received by this department.

We understand that Galveston County, Texas, has a population of more than 20,000 inhabitants and less than 190,000 inhabitants, according to the last Federal Census, and that the county officers are compensated on a salary basis.

Article 3883, Revised Civil Statutes of Texas, in part, reads as follows:

"Maximum fees. - Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this article shall be as follows: . . ." (The officers mentioned in this article are as follows: County Judge, District or Criminal District Attorneys, Sheriffs, County Clerks, County Attorneys, District Clerk, Tax Collector, Tax Assessor, Assessor and Collector of Taxes, Justice of the Peace and Constable.)

Article 3891, Revised Civil Statutes of Texas, in part, reads as follows:

"Disposition of fees. - Each officer named in this chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3, together with the salaries of his assistants and deputies, and authorized expenses un-

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der Article 3899, and the amount necessary to cover cost of premium on whatever surety bond may be required by law. . . ."

Article 3899 (a), Revised Civil Statutes of Texas, in part, reads as follows:

"Expense accounts. - At the close of each month of his tenure of office each officer named herein who is compensated on a fee basis shall make as part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office, such as stationery, stamps, telephone, premiums on official bonds, including the cost of surety bonds for his deputies, etc. . . ." (Underscoring ours)

Article 3899 (b), Revised Civil Statutes of Texas, in part, reads as follows:

"Each officer named in this Act, where he receives a salary as compensation for his services, shall be empowered and permitted to purchase and have charged to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on official bonds, etc. . . ." (Underscoring ours)

It will be noted that Section b of Article 3899 of the Revised Civil Statutes of Texas, does not name specifically the officers on a salary basis who would be entitled to charge the county for the payment of the premiums on their official bond. It will be further noted that Section b of Article 3899 specifically limits such right to "each officer named in this Act". Since Section b fails to name such officers, we, therefore, must look to Section a, wherein the following language is used:

"At the close of each month of his tenure of office, each officer named herein who is compensated on a fee basis . . ."

It will be noted that such officers are not specifically named in Section a of Article 3899, however, we are of the opinion that the term "herein" is broader than the term "in this Act" and that the term "herein" means, or rather, refers to officers who are compensated on a fee basis who are referred to in the same chapter,

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to wit: the fee officers referred to in Articles 3883 and 3891 of the Revised Civil Statutes of Texas. Such officers are as follows: "County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, Assessor and Collector of Taxes, Justice of the Peace, and Constable." These articles do not include the County Treasurer.

We are, therefore, of the opinion that Article 3899 (a), Revised Civil Statutes of Texas, applies to the officers above named, while they are on the fee system and that Article 3899 (b) applies to the officers above named while they are on the salary system.

It is the opinion of this department that neither of these sections of Article 3899 of the Revised Civil Statutes of Texas applies to the County Treasurer.

This department has repeatedly ruled that the Commissioners Court does not have the authority to pay premiums on the official surety bond of the County Treasurer. See opinions Nos. 0-204 and 0-902 of this department.

You are, therefore, respectfully advised that it is the opinion of this department that Galveston County, Texas, may not legally pay the premium on the official bond of its County Treasurer.

Trusting that this answers your inquiry and with best regards, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant



WJT:OMB

APPROVED AUG 11, 1939

*Gerard B. Mann*

ATTORNEY GENERAL OF TEXAS